

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO.: 05-CR-50067-FL

TYRONE JACKSON SMITH,

HON. PAUL V. GADOLA
MAG. JUDGE WALLACE CAPEL, JR.

Defendant.

ORDER DENYING MOTION FOR BOND

This matter came before the Court for hearing on August 9, 2006, on the defendant's Motion For Bond Review, filed on August 3, 2006, [D/E #15].

The defendant appeared before this Court for his arraignment on May 12, 2006, based upon an Indictment charging him with Distribution Of 50 Grams Or More Of Cocaine Base, in violation of 21 U.S.C. § 841(a)(1). At the time of the arraignment, the defendant was ordered detained and the issue of bond was deemed moot because the defendant was serving a 45 day state sentence. He was subsequently ordered detained, and an Order of Detention Pending Trial was entered on May 15, 2006. It was further ordered that the issue of bond may be raised again should the defendant's circumstances change.

The defendant has requested that the order of detention be vacated and that he be released on bond. The reasons cited by the defendant in support of his motion are that he has recently completed his 45 day term of incarceration. He further states that he does not present a danger to the community, nor is he a flight risk. Lastly, he indicates that he has found a suitable third-party custodian to supervise him should he be released.

The government is opposed to the request for bond in this matter. The attorney for the government states that despite the fact that this defendant is no longer in state custody, and that he may have a family member who is willing to act as a third-party custodian, the totality of the circumstances surrounding the defendant's criminal history as well as the nature of the present charges, and the length of incarceration that the defendant is facing, weigh against the defendant with respect to bond. The government indicates that the defendant has a number of prior criminal convictions. He also has demonstrated a history of failure to comply with prior court orders.

The Court agrees with the government in this matter. Information provided by the Pretrial Officer in this matter, further buttresses the government's argument against bond. The report of the Pretrial Officer indicates that the defendant has exhibited a continued pattern of engaging in criminal activity. Furthermore, a number of bench warrants have been issued for this defendant for his failure to abide by court orders. It further appears that the defendant was on probation at the time of the instant offense. Based upon the defendant's previous criminal record, his failure to follow court orders, and the nature of the charges now pending, I find that the defendant poses a danger to the community as well as a risk of flight in this matter.

Accordingly, the defendant's motion for bond is hereby **DENIED**. The Order of Detention previously entered in this matter shall remain in effect.

The defendant is hereby remanded to the custody of the United States Marshal.

IT IS SO ORDERED.

DATED: August 10, 2006

**s/Wallace Capel, Jr. _____
WALLACE CAPEL, JR.
UNITED STATES MAGISTRATE JUDGE**

CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: James C. Mitchell, AUSA, David Koelzer, Esq., Federal Defender Office, and I hereby certify that I have hand delivered/ mailed by United States Postal Service the paper to the following non-ECF participants: United States Marshal, 600 Church St., Flint, MI 48502, Pretrial Services Officer, 600 Church St., Flint, MI 48502

s/James P. Peltier
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